

**OPINION**  
**74-39**

December 30, 1974           (OPINION)

Mr. J. B. Graham  
City Attorney  
Ellendale, ND 58436

RE: Ambulance Service, City of Ellendale

Dear Mr. Graham:

This is in response to your letter of 10 December 1974 you indicate to be written at the request of the Mayor of one of the cities of your county.

You indicate that this city, during the summer, pursuant to Section 23-12-08 of the North Dakota Century Code, entered into an ambulance agreement with a group of citizens of the city, with funds not otherwise committed, purchased an ambulance and set it up pursuant to the State standards and thereupon leased the same to this ambulance group.

You indicate that this fall the County Commissioners of the County, pursuant to Section 57-15-50 of the North Dakota Century Code, had placed upon the ballot the question of shall the County levy annually a tax of not to exceed one-half mill of the net taxable assessed valuation of the County for the purpose of subsidizing County ambulance service. You indicate that this passed overwhelmingly and the County Commissioners will be levying such tax and by agreement, the County Commissioners have agreed that one-half of the tax levy shall be paid to the ambulance service for each of two cities in your county having an ambulance service. You indicate that there is no problem here because these are the only two ambulance services offered within the county.

You indicate that the problem arises as to whom this money gets paid to. Your question is indicated to be whether the County Commissioners pay this money over to the city who shall then pay it out to the ambulance service upon the bill being submitted to the city and proper vouchers and warrants drawn for the payment of it.

You indicate that the ambulance service is not a legal entity as such and has no taxing powers as such.

From a strictly legal standpoint, it would probably not be impossible for the county to contract with the same type of citizens group or groups as have entered into a contract of lease with the city as has been described in your letter. (See in this regard subsection one of Section 45-05-05 of the North Dakota Century Code.) In view of the looseness of organization of some of the types of groups that handle this type of work in the state, however, there might be some difficulty in determining which of the members would have to be parties signatory to the contract, though we would assume, if necessary, all members of the group could sign as such members.

It might, however, be more practical to enter into contracts with cities having a surplus of ambulance service available for sale. Chapter 54-40 of the North Dakota Century Code does authorize cooperation between counties, cities, etc. We note that Section 57-15-50 of the North Dakota Century Code does provide that the tax shall be "for the purpose of subsidizing county ambulance services." On such basis, we would conclude that same could be paid pursuant to contract to any organization furnishing "county ambulance service" for such services. There might also be some question as to the propriety of a city furnishing such a public service to other than the inhabitants of the city. We would assume, however, that the ambulance service furnished by a city would, to a county, be that available "surplus" to the needs of the city and for adequate reimbursement of the city pursuant to cooperative agreements executed under said Chapter 54-40.

We hope the within and foregoing will be sufficient for your purposes.

Sincerely,

ALLEN I. OLSON

Attorney General